

REMARKS

In the Advisory Action dated January 6, 2006, Claims 40, 42-45 and 57-59 are pending. Claims 43-44 and 57-59 are allowed. The Examiner maintains the rejection of Claims 40, 42 and 45 under 35 U.S.C. §101 as allegedly not supported by either a specific and substantial asserted utility or a well established utility.

This Response addresses each of the Examiner's rejections. Applicants therefore respectfully submit that the present application is in condition for allowance or at least in better condition for appeal. Favorable consideration of all pending claims is therefore respectfully requested.

In the first instance, Applicants, through the undersigned, would like to thank the Examiner for the telephonic communication of January 19, 2006, providing helpful suggestions for the amendments to the claims to achieve the allowance of the present application.

In an effort to favorably advance the prosecution, and in accordance with the Examiner's suggestion, Applicants have canceled Claim 45, without prejudice. Applicants reserve the right to file a continuation application directed to the subject matter of Claim 45.

During the course of telephonic communication, the Examiner stated that Claims 40 and 42 are rejected solely because Claim 42 recites SEQ ID NO: 16 which is a nucleic acid sequence coding for a partial amino acid sequence of a haemopoietin receptor. The Examiner is of the opinion that a partial amino acid sequence of a haemopoietin receptor is not supported by either a specific and substantial asserted utility or a well established utility. The Examiner during the telephonic communication stated that Claims 40 and 42 will be allowable if the recitation of SEQ ID NO: 16 in Claim 42 is deleted.

In an effort to achieve the allowance of the present case, Applicants have amended Claim 42 according to the Examiner's suggestion. Claim 42, as amended, and Claim 40, which depends from Claim 42, no longer recite SEQ ID NO: 16. Applicants reserve the right to file a continuation application to pursue the full scope of Claims 40 and 42.

Applicants respectfully submit that, as the result of cancellation of Claim 45 and the amendment to Claim 42, the rejection of Claims 40, 42 and 45 the rejection of claims 40, 42-47, 57 and 58 under 35 U.S.C. §101, is rendered moot and withdrawal therefore is respectfully requested.

In view of the foregoing amendments and remarks, it is firmly believed that the subject application is in condition for allowance, which action is earnestly solicited.

Respectfully submitted,



Frank S. DiGiglio
Registration No. 31,346

Scully, Scott, Murphy & Presser, P. C.
400 Garden City Plaza, Suite 300
Garden City, New York 11530
Telephone: 516-742-4343
FSD/ZY:ab